

**REMARKS**

Reconsideration of this application, in view of the following remarks, is respectfully requested.

**II     Status Of The Claims**

Claims 1, 11, and 18 have been amended.

Claims 1 and 18 have been amended to clarify that the adsorbent is derived from sewage sludge. Support for these amendments may be found in the specification at page 7, lines 18-22, page 11, lines 16-18 and 25-26. Claim 11 has been amended to correct a typographical error. The amendment to claim 11 is not a narrowing amendment. No new matter has been added by these amendments.

Claims 1-28 are pending in this application and are currently under consideration.

**II     Restriction Requirement****Group Election**

The Examiner has required restriction to one of the following groups of claims under 35 U.S.C. § 121:

Group I:        claims 1-10, drawn to an adsorbent, classified in class 502, subclass 406-414;

Group II:       claims 11-17, drawn to a different adsorbent, and making it, classified in class 502, subclass 416+; and

Group III       claims 18-28, drawn to gas scrubbing, classified in class 423, subclass 230.

In order to be fully responsive, Applicants hereby provisionally elect, with traverse, the claims of Group I for further prosecution. Applicants respectfully traverse this restriction requirement for the following reasons.

The Examiner contends inventions I/II and III are related as product and process of use, and as such, are distinct since the product as claimed can be used in a materially different process. In this case, the Examiner asserts that the product can be used as a filler or support.

The Examiner contends that the inventions of Groups I and II are sub-combinations, which are patentably distinct since they are separately usable. Again, the Examiner asserts that the invention of Group I has a separate utility, such as a filler or support.

Applicants respectfully submit that the Groups designated by the Examiner do not warrant separate examination and search. The claims of Group I, as amended herein, are directed to an adsorbent derived from sewage sludge, while the claims of Group II are directed to a process for preparing such an adsorbent. Accordingly, a careful search of the prior art relevant to the claims of Group I would develop prior art relevant to the claims of Group II. Additionally, the adsorbents recited in the claims of Groups I and II are required for the processes recited in the claims of Group III.

Under Patent Office examining procedures, "if the search and examination of an entire application can be made without serious burden, the Examiner *must* examine it on the merits, even though it includes claims to distinct or independent inventions." M.P.E.P. § 803 (emphasis added). As explained above, the groups of claims designated by the Examiner do not define adsorbents and methods which are sufficiently distinct to warrant separate examination and searches. Applicants believe that it is not a serious burden to examine the claims of Groups I, II and III in a single application.

Additionally, the Examiner's reasoning overlooks the pertinent law. If the adsorbents recited in the claims of Group I are patentable over the prior art, so are the methods and processes

recited in the claims of Groups II and III. *See In re Ochiai*, 71 F.3d 1565, 37 U.S.P.Q.2d 1127 (Fed. Cir. 1995).

For the foregoing reasons, Applicants believe the Examiner's restriction of the claims is unwarranted, and respectfully request that the Restriction Requirement be withdrawn and the claims be examined together in this application. This request is not, however, an admission that the inventions of Groups I, II, and III, as identified by the Examiner, are not independent or patentably distinct.

#### Species Election

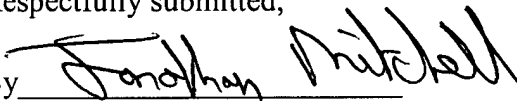
The Examiner has also required Applicants to elect a single disclosed species, namely one of the oxides recited in claim 3, if the claims of Group I are elected. In order to be fully responsive, Applicants elect an adsorbent containing iron oxide as the inorganic matter.

Claims 1-10 read on the elected species. It is noted that upon allowance of a generic claim, Applicants will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of the allowed generic claim, as provided by 37 C.F.R. § 1.141.

An early and favorable consideration of this response and action on the merits is now respectfully requested. If there are any other issues remaining which the Examiner believes could be resolved through either a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

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Respectfully submitted,

By 

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